

From: Maureen Comber
Date: 14/02/2009 14:48:09
To: raymond.ellis@hants.gov.uk
Cc: judith.downing@hants.gov.uk; marknkempgee@aol.com
Subject: Public path Order, Cradle Lane to BW54 Broxhead Common

Dear Cllr Ray,

I hope I may address you like that because we have met over the years from time to time and I know you come from the Hook Park, Warsash area, which was where my family used to live for a time

Thank you for your letter of 6th February 2009 in response to my email of 12th December 2008. I am totally confused by the first paragraph and I am afraid I need to ask you more questions.

The definitive map process should be effective in keeping the map up to date, that is, when a path is gained by whatever means, an Order is made and it is added to the definitive map. You are right to say that a path cannot be added to the map unless it has gained the status of a right of way.

My question to you was, why are the County Council trying to frustrate their own policy in objecting to this Order. The Countryside Access Plans seek to enhance and improve existing rights of way as well as adding to them where possible?

The Secretary of State has decided that he is satisfied that there is sufficient evidence of use for this path for it to be added to the Definitive Map. That is why he has instructed HCC to make the Order. The decision is not to effect a public debate about the evidence. That will only come about if there are objections. If there were none the path would automatically be added to the Definitive Map. The Public Inquiry process is there to address the concerns of any objectors to the Order. In this case, the half dozen or so objections, which as far as I am aware are mainly from the landowners and their acquaintances, will be scrutinized by the Secretary of State who will then decide whether to hold a PI or not, depending whether he thinks the objections are sustainable. It is most unusual for a Council to object to its own Order. The norm would be for them to take a neutral stance. In this case particularly, as they are acting against policy in proactively doing so.

I quite understand that the Committee reached its view of the evidence without having regard to the public benefit, although I would suggest that given the policy, it is something they should have in mind. The Secretary of State has considered the evidence and come to the conclusion that the Regulatory Committee are mistaken. This decision has been reached by correspondence and evidence passing between the HCC and myself as the applicant, through the Planning Inspectorate until a decision can be made.

So the Regulatory Committee's reservations have already been fully addressed.

So let us look again at the points which you have been kind enough to try and respond to:

1. Andrew Smith is Assistant Head of Countryside Service - Access, and is not acting under delegated powers. Is that correct?
2. As the Committee have not had a chance to debate the decision of the Secretary

of State that an Order should be made, or in other words, that the Planning Inspectorate think that on balance, the Committee have come to the wrong conclusion, please may I know why further ratification is not being sought?

3. Costs may be awarded if it is seen that the Council, in sustaining their objection are acting not only against their own policy but without sufficient regard for the benefit of the public as a whole.
4. Is addressed above
5. As I have tried to point out, it is the Inspectorate who will decide whether the other objections should lead to a PI or whether he will answer on the evidence already before him. The objection from HCC may well trigger a PI and it would not be unusual for the costs of the whole PI to be awarded against them, if the Inspector decided to maintain his position. It has happened before. In addition the cost of Officer time in preparing the report and attending the PI will be considerable. Please will you explain to me why this sort of expense is permissible while we are continually told there is not enough money to keep such paths as we have in a useable condition?

As you will doubtless be aware, the Hampshire Local Access Forum are diligently seeking for lost ways, such as the one under discussion, to be fast tracked on to the Definitive Map. Can you please tell me if they are aware that their discoveries may well not be acceptable to the Regulatory Committee and to use your own words that

"it would be inappropriate to use the legislation to gain improvements to the network on the basis of public benefit."

I shall look forward to hearing from you again

Maureen